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Ontario. Labour Relations
Board

The rules of practice and
procedure of the Ontario
Labour Relations Board. 1944.



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**THE RULES OF PRACTICE
AND PROCEDURE
of the
ONTARIO
LABOUR RELATIONS BOARD**



ONTARIO

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TORONTO

Printed and Published by T. E. Bowman,
Printer to the King's Most Excellent Majesty 1944



THE RULES OF PRACTICE AND PROCEDURE

of the

ONTARIO LABOUR RELATIONS BOARD

being the rules of practice and procedure, together with the forms to be used in connection therewith, made by the Ontario Labour Relations Board, on Tuesday, the 2nd day of May, 1944, subject to the approval of the Lieutenant-Governor in Council.

Published in the Ontario Gazette the 27th day of May, 1944.

Copy of an Order-in-Council, approved by The Honourable the Lieutenant-Governor, dated the 2nd day of May, A.D. 1944.

Upon the recommendation of the Honourable the Minister of Labour, the Committee of Council advise that the attached Rules of Practice and Procedure for the Ontario Labour Relations Board pursuant to sub-section 7 of Section 5, of the Ontario Labour Relations Board Act, 1944, Chapter 29, be approved.

Certified:

C. F. Bulmer,
Clerk, Executive Council.

THE ONTARIO LABOUR RELATIONS BOARD ACT

Section 5 (7)

Subject to the approval of the Lieutenant-Governor in Council, the Board may make rules or regulations governing its procedure which are not inconsistent with the Wartime Labour Relations Regulations or any rules or regulations thereunder.

THE RULES OF PRACTICE AND PROCEDURE OF THE ONTARIO LABOUR RELATIONS BOARD

1. (1) In these Rules:

- (a) "Act shall mean *The Labour Relations Board Act, 1944* (Ontario) ;
- (b) "Board" shall mean Ontario Labour Relations Board;
- (c) "Chief Executive Officer" shall mean the Chief Executive Officer appointed pursuant to the Act;
- (d) "person shall include partnership, corporation, employers' organization, trade union or employees' organization; and
- (e) "Wartime Labour Relations Regulations" shall mean the Wartime Labour Relations Regulations made under the *War Measures Act* (Canada) by Order of the Governor-General in Council number P.C. 1003 and dated the 17th day of February, 1944.

(2) Save as hereinbefore provided, expressions defined in the Wartime Labour Relations Regulations shall have the same meaning when used in these Rules.

2. Every proceeding before the Board shall be commenced by a petition, which shall be filed with the Board.

3. (1) A petition (Form 1) for the certification of bargaining representatives pursuant to section 6 of the Wartime Labour Relations Regulations shall contain the following information:

- (a) the name and address of the petitioner;
- (b) the name and address of the employer;
- (c) the general nature of the employer's business;
- (d) the approximate number of employees in the plant or plants affected by the petition;

- (e) a detailed description of the unit of employees which the petitioner claims to be appropriate for collective bargaining;
- (f) the approximate number of employees in such unit;
- (g) the name and address of any other person known to the petitioner as claiming to represent any of the employees in the unit or units of employees which may be affected by the certification sought;
- (h) the names and addresses of the persons who have been elected or appointed as bargaining representatives;
- (i) a concise statement of the manner in which such bargaining representatives have been elected or appointed;
- (j) the date of any other certification of bargaining representatives of any of the employees of such employer;
- (k) a concise statement of the existence of any collective agreement between such employer and any of his employees in the unit of employees claimed by the petitioner to be appropriate for collective bargaining and any of the provisions thereof relating to renewal and termination; and

(l) any other relevant facts.

(2) In a petition by a trade union, the petition shall contain a statement as to whether the petitioner is a provincial, national or international employees' organization, or a local branch chartered by and in good standing with such an organization, as the case may be, and, in the case of a local branch chartered by such an organization, the name of the organization which issued the charter and the date of the issue of such charter.

4. (1) A petition (Form 2) requesting the Board to establish an appropriate procedure for consideration and settlement of disputes concerning the interpretation or violation of

a collective agreement pursuant to section 18 (2) of the War-time Labour Relations Regulations shall contain the following information:

- (a) the name and address of the petitioner;
- (b) the name and address of the other party to the agreement;
- (c) a description of the general nature of the business of the employer;
- (d) the approximate number of his employees affected by the agreement;
- (e) the date of the execution of the collective agreement; and
- (f) a statement that the agreement contains no appropriate procedure for consideration and settlement of disputes concerning its interpretation or violation or, if the petitioner claims that the procedure contained in the agreement is inappropriate, the grounds upon which he intends to rely to establish his claim.

(2) The petitioner shall file, together with the petition, a copy of the collective agreement.

5. A petition (Form 3) for leave to institute a prosecution for violation of any provision of the Wartime Labour Relations Regulations, save and except the provision requiring a person to do such things as may be required of him under the procedure established by a collective agreement for the consideration and final settlement of disputes concerning its interpretation or violation, shall contain the following information:

- (a) the name and address of the petitioner;
- (b) the name and address of the person against whom the petitioner seeks to institute a prosecution;
- (c) the provision of the Wartime Labour Relations Regulations alleged to have been violated; and
- (d) a concise statement of the material facts

upon which the petitioner intends to rely in establishing such violation.

6. (1) A petition (Form 4) for leave to institute a prosecution for failure by any person to do such things as are required of him in accordance with the procedure established by the collective agreement for the consideration and settlement of disputes concerning its interpretation or violation shall contain the following information:

- (a) the name and address of the petitioner;
- (b) the name and address of the person against whom the petitioner seeks to institute a prosecution; and
- (c) a concise statement of the material facts relating to such failure.

(2) The petitioner shall file, together with the petition, a copy of the collective agreement.

7. Every petition shall be verified by affidavit which shall be filed therewith.

8. (1) Upon the filing of a petition, the Chief Executive Officer shall issue a notice of the filing of such petition (Form 6 or 6A).

(2) The notice and a copy of the petition shall be served,

- (a) in the case of a petition for certification of bargaining representatives, upon the employer; and
- (b) in the case of any other petition, upon the person against whom relief is sought.

9. Where a petition for the certification of bargaining representatives has been filed with the Board, the Chief Executive Officer shall issue a notice of such petition (Form 7) and direct the employer to post upon his premises copies thereof and of the petition, in a conspicuous place or places where they are most likely to come to the attention of all employees in the unit or units of employees which may be affected by the certification sought.

10. (1) Every person shall, within seven days of the service of any petition upon him, file in the office of the Board his reply, if any, and the reply shall be verified by affidavit.

(2) The reply shall contain a concise statement of the material facts upon which the person replying intends to rely and shall specifically admit, deny or explain each of the statements made in the petition.

(3) Upon the filing of a reply, the Chief Executive Officer shall forthwith serve a copy of the reply upon the petitioner.

11. (1) In a proceeding for the certification of bargaining representatives, any trade union, employees' organization, or person claiming to represent any of the employees in the unit or units of employees which may be affected by the certification sought may, within seven days after the posting of the notice referred to in Rule 9, file with the Board a notice of intervention (Form 8) setting out the grounds upon which such trade union, employees' organization or person claims to be interested in the proceedings and such notice of intervention shall be verified by affidavit.

(2) Where the intervener is acting on behalf of any persons whom he claims to be entitled to certification as bargaining representatives, the intervener shall file with the Board, together with the notice of intervention, a petition (Form 1) for the certification of such bargaining representatives.

(3) Upon the filing of a notice of intervention, the Chief Executive Officer shall forthwith serve a copy of the notice of intervention and accompanying petition, if any, upon the original petitioner and upon the employer, but it shall not be necessary for the Chief Executive Officer to issue or direct to be posted the notices provided for by Rule 9.

12. After the expiration of the time for filing replies and notices of intervention, the Chief Executive Officer shall issue and serve upon the petitioner, the respondent, and the intervener, if any, a notice fixing the place and the time, which shall be not less than five clear days from the date of the service of the notice, for the hearing of the petition.

13. (1) Where any person served with a notice of hearing fails to attend upon the hearing or any adjournment thereof, the Board may proceed in his absence.

(2) If, on any hearing, it appears that any person to whom notice has not been given should have had notice, the Board may adjourn the hearing in order that notice may be given to such person.

14. (1) A request (Form 10) by a person for the intervention of the Board, pursuant to section 11 of the Wartime Labour Relations Regulations, with a view to the completion of an agreement shall state:

- (a) the name and address of the person making the request;
- (b) the name and address of the employer or bargaining representatives, as the case may be, with whom the person submitting the request has sought to negotiate an agreement;
- (c) a concise statement of the efforts made by the parties to negotiate an agreement; and
- (d) the grounds for the belief of the person submitting the request that an agreement will not be completed in a reasonable time.

(2) Upon receipt of such a request, the Chief Executive Officer shall issue and serve upon the employer and upon the bargaining representatives a notice of hearing of the request at such time and place as may be deemed advisable by the Board.

15. (1) A petition, reply, notice of intervention or notice of objections may be amended at any time by leave of the Board, upon such terms and conditions as to the Board may seem meet.

(2) A proceeding shall not be defeated by reason of any defect of form or any technical irregularity, but all necessary amendments shall be made upon such terms as the Board may direct to secure the advancement of justice and determining of the real matter in issue.

16. Where an affidavit is required to be made under these Rules it shall be made,—

- (a) in the case of an individual, by such individual;

(b) in the case of a partnership, by any member thereof; and

(c) in the case of a corporation, employers' organization, employees' organization, or trade union, by any responsible officer or official thereof.

17. (1) Where the Chief Executive Officer is required to serve any notice or other document, he may serve such notice or document on the person to be served by sending such notice or other document by prepaid registered post to such person at his address set forth in the petition, reply or notice of intervention, and such service shall be deemed to have been made on the day of such mailing.

(2) Where the name and address of a solicitor or agent of any party to a proceeding is endorsed on or is shown in a petition, reply or notice of intervention, any notice or other document required to be served on such party may be served upon such solicitor or agent at the address so appearing for and on behalf of such party.

18. (1) The Board may, at any time after a petition has been filed, refer any matter arising thereon to the Chief Executive Officer or to any other person, in this section referred to as the "referee", for inquiry and report.

(2) Where any matter is so referred, the referee may take evidence thereon at such time and at such place as may be necessary or convenient for that purpose.

(3) Upon any such reference, the referee may summon any person and require him to give evidence on oath and to produce such documents and things as the referee may deem requisite for the full investigation of the matter so referred.

(4) Where the matter is so referred prior to the issue of the notice of hearing provided for by Rule 12, the referee shall submit his report to the Board at the time and place fixed for the hearing of the petition and the report shall constitute part of the evidence submitted at such hearing.

(5) Where the matter is so referred at or after the hearing of the petition, the referee shall file his report with the Board immediately upon the completion thereof.

19. Where a matter referred under Rule 18 involves the taking of a vote, the direction therefor shall, subject to any other provisions therein contained, specify the unit of employees in which the vote is to be taken and the Chief Executive Officer shall, under such direction, have power to,—

- (a) settle the list of the employees entitled to vote;
- (b) settle the form of the ballot;
- (c) settle the date and hours for the taking of the vote;
- (d) settle the form of notices for the vote and direct posting thereof;
- (e) act as the returning officer or appoint a returning officer;
- (f) appoint such deputy returning officer and poll clerk as he may deem necessary;
- (g) fix the number and location of the polling places; and
- (h) give any special directions he may deem necessary as to the conduct of the vote.

20. (1) Upon the filing of any report with the Board pursuant to subsection 5 of Rule 18, the Chief Executive Officer shall serve notice of filing the report (Form 11) and a copy of the report on each of the parties to the proceedings.

(2) Any such party having any objections to the report shall, within seven days from the time of such service upon him, file with the Board a notice of the objections (Form 12) which he intends to raise before the Board and no other grounds of objection shall there be raised or argued save by leave of the Board.

(3) The Chief Executive Officer shall serve a copy of such notice upon all other parties to the proceeding.

21. A report shall be deemed to be confirmed at the expiration of seven days from the time of the service of notice of

the filing thereof, unless within such time a notice of objections has been filed with the Board pursuant to Rule 20.

22. Where a notice of objections to a report has been filed under Rule 20, the Chief Executive Officer shall issue and serve upon all parties to the proceeding a notice of the hearing by the Board of the objections to the report.

23. The Board may, if it deems it expedient in the interests of justice, postpone or adjourn the hearing of any matter for such time and to such place, and upon such terms as it may think fit.

24. (1) Any time prescribed by these Rules may be enlarged by consent in writing filed with the Board.

(2) The Chief Executive Officer may enlarge the time prescribed by these Rules for doing any act, filing any document or taking any proceeding and may exercise such power although application therefor is not made until after the expiration of the time prescribed.

(3) Where it is satisfied that such a course is necessary or convenient in the public interest, the Board may abridge the time prescribed by these Rules for doing any act, filing any document or taking any proceeding.

25. (1) Any application to the Ontario Labour Relations Board for leave to appeal to the Wartime Labour Relations Board from any order, direction, ruling or decision of the Ontario Labour Relations Board shall be made by notice to all other parties to the proceeding in which such order, direction, ruling or decision is made or given, setting out therein the grounds of appeal and such notice of appeal shall be filed in the office of the Ontario Labour Relations Board within fifteen days after the making or giving of the order, direction, ruling or decision appealed from.

(2) Forthwith upon the filing of such notice, the Chief Executive Officer shall serve a copy thereof upon all other parties to the proceeding and shall notify the parties of the time and place of the hearing of such application.

26. (1) The forms contained in the appendix hereto shall be used with such variations or modifications as circum-

stances may require, but any variance therefrom, not being in matter of substance, shall not affect their regularity or validity.

(2) The provisions contained in such forms shall be deemed to be authorized by these Rules.

APPENDIX OF FORMS

No. 1.

Petition for Certification (Rule 3)

ONTARIO LABOUR RELATIONS BOARD

Between:

A. B.

Petitioner,

—and—

C. D.

Respondent.

The petitioner requests that the Ontario Labour Relations Board certify to the parties the name or names of the persons who have been duly elected or appointed as the bargaining representatives for the employees in the unit or units of employees hereinafter set forth:—

1. Name of petitioner:

2. Address of petitioner:

3. If the petitioner is a local branch chartered by a provincial, national or international employees' organization,—

(a) the name of the parent employees' organization:

(b) the address of the parent employees' organization:

(c) the date of the issue of a charter to the local branch:

(d) is the local branch in good standing with the parent employees' organization?

4. Name of employer:

5. Address of employer:
6. General nature of the employer's business:
7. Approximate number of employees in the plant or plants affected by the petition:
8. Detailed description of the unit of employees which the petitioner claims to be appropriate for collective bargaining:
9. Approximate number of employees in such unit:
10. Names and addresses of the persons who have been elected or appointed as bargaining representatives:
11. A brief statement of the method of election or appointment of such bargaining representatives:
12. The name and address of any other person, trade union or employees' organization known to the petitioner as claiming to represent any of the employees in the unit or units which may be affected by the certification sought:
13. The date of any other certification of bargaining representatives for any of the employees in such unit or units of employees:
14. A brief statement as to any existing or recently expired collective agreement between the employer and any of the employees in such unit:
15. A brief statement of any provision of such agreement relating to its renewal or termination:
16. Any other relevant facts.

Dated at this day of 19 .

.....
Signature.

No. 2.

*Petition for Establishment of Grievance
Procedure (Rule 4)*

ONTARIO LABOUR RELATIONS BOARD

Between :

A. B.

Petitioner,

—and—

C. D.

Respondent.

The petitioner requests that the Ontario Labour Relations Board establish an appropriate procedure for consideration and settlement of disputes with the respondent concerning the interpretation or violation of the collective agreement between the parties hereto dated the day of 19 .

1. Name of petitioner :
2. Address of petitioner :
3. Name of the other party to the agreement :
4. Address of the other party to the agreement.
5. Description of the general nature of the business of the employer :
6. Approximate number of employees affected by the agreement :
7. Date of execution of the collective agreement.
8. The collective agreement contains no appropriate procedure for consideration and settlement of disputes concerning the interpretation or violation thereof.

or

9. The procedure contained in the collective agreement for the consideration and settlement of disputes concerning the interpretation or violation thereof is inappropriate or inadequate for the following reasons.

Dated at this day of 19 .

.....
Signature.

No. 3.

*Petition for Leave to Institute Prosecution for Violation of
Provisions of Wartime Labour Relations Regulations
(Rule 5)*

ONTARIO LABOUR RELATIONS BOARD

Between:

A. B.

Petitioner,

—and—

C. D.

Respondent.

The petitioner requests that the Ontario Labour Relations Board grant leave to the petitioner or his duly authorized representative to institute a prosecution for the violation of the Wartime Labour Relations Regulations.

1. Name of petitioner:
2. Address of petitioner:
3. Name of person against whom the petitioner seeks to institute a prosecution:
4. Address of such person.
5. Provision of the Wartime Labour Relations Regulations alleged to have been violated:

Dated at this day of 19 .

.....

*Petition for Leave to Institute Prosecution for Failure To Do
Things Required to be Done Pursuant to Grievance
Procedure in Collective Agreement*

Between :

Petitioner,

—and—

Respondent.

The petitioner requests that the Ontario Labour Relations Board grant leave to the petitioner or his duly authorized representative to institute a prosecution against the respondent on the ground that the respondent has failed to do things required of him in accordance with the procedure established by the collective agreement for the consideration and settlement of disputes concerning its interpretation or violation, which agreement is dated the day of 19 .

- 1 Name of petitioner:
2. Address of petitioner:
3. Name of person against whom the petitioner seeks to institute a prosecution:
4. Address of such person:

5. The petitioner alleges that leave should be granted to institute a prosecution for the following reasons:

Dated at this day of 19 .

.....
Signature.

No. 5.

Affidavit of Verification

ONTARIO LABOUR RELATIONS BOARD

Between:

A. B.

Petitioner,

—and—

C. D.

Respondent.

—and—

E. F.

Intervener.

I, , of the of ,
in the Province of Ontario, make oath and say that:

(1) I am the of the Petitioner, *or*
Respondent, *or* Intervener, named herein, and as such have
personal knowledge of the matters set forth in the annexed
petition, *or* reply *or* notice of intervention;

(2) All statements of fact contained therein are to the best of my knowledge, information and belief in all respects true and correct.

Sworn before me at the
of
in the of
this day of ,
A.D. 19 .

A notary public, commissioner for taking
affidavits, a justice of the peace, etc.

No. 6.

Notice of Filing Petition for Certification (Rule 8)

ONTARIO LABOUR RELATIONS BOARD

Between:

A. B.

Petitioner.

—and—

C. D.

Respondent.

To C. D.

TAKE NOTICE that the petitioner,
has filed in the office of the Ontario Labour Relations Board
a petition asking for certification by the Board of bargaining
representatives for a unit or units of employees of the re-
spondent, composed of
a copy of which petition is enclosed herewith.

AND FURTHER TAKE NOTICE that if you wish to dis-
pute the petitioner's claim you must cause a reply thereto, veri-
fied by affidavit, to be filed with the Chief Executive Officer
of the Board at his office in the Parliament Buildings, East

Block, Queen's Park, Toronto, within seven days of the date of mailing this notice, inclusive of the day of such mailing, and in default of your so doing, you will not be entitled to notice of any further proceedings herein and such orders may be made and proceedings taken herein as may appear to the Board to be just and agreeable to equity and good conscience.

Issued from the Office of the Chief Executive Officer of the Board this day of , 19 .

.....
Chief Executive Officer.

No. 6A.

*Notice of Filing Petition for Relief other than
Certification (Rule 8)*

ONTARIO LABOUR RELATIONS BOARD

Between:

A. B.

Petitioner,

—and—

C. D.

Respondent.

To C. D.:

TAKE NOTICE that the petitioner has filed in the office of the Ontario Labour Relations Board a petition asking for a copy of which petition is enclosed herewith.

AND FURTHER TAKE NOTICE that if you wish to dispute the petitioner's claim you must cause a reply thereto, verified by affidavit, to be filed with the Chief Executive Officer of the Board at his office in the Parliament Buildings, East Block, Queen's Park, Toronto, within seven days of the date of mailing this notice, inclusive of the day of such mailing, and in default of your so doing, you will not be entitled to notice of any further proceedings herein and such orders may be made and proceedings taken herein as may appear to

the Board to be just and agreeable to equity and good conscience.

Issued from the Office of the Chief Executive Officer of the Board this day of , 19 .

.....
Chief Executive Officer.

No. 7.

Notice of Petition for Certification (Rule 9)

ONTARIO LABOUR RELATIONS BOARD

Between:

A. B.

Petitioner,

—and—

C. D.

Respondent.

To the employees of
and to all other persons whom it may concern:—

TAKE NOTICE that the petitioner has filed in the office of the Ontario Labour Regulations Board a petition asking for the certification by the Board of bargaining representatives for a unit or units of employees of

composed of

AND TAKE NOTICE that if you wish to dispute the petitioner's claims herein, or any of them, you must cause a notice of intervention, verified by affidavit, to be filed in the office of the Chief Executive Officer of the Board at the Parliament Buildings, East Block, Queen's Park, Toronto, within seven days of the posting of this notice, inclusive of the day of such posting, and in default of your so doing you will not be entitled to notice of any further proceedings herein, and such order may be made and proceedings taken as may appear to the Board to be just and agreeable to equity and good conscience.

AND FURTHER TAKE NOTICE, that if you wish to apply to the Board for the certification of other bargaining representatives for the said unit or units of employees, you must, with such notice of intervention file in the said office, an intervening petition for such certification verified by affidavit.

Issued from the Office of the Chief Executive Officer of the Board this day of , 19 .

.....
Chief Executive Officer.

This notice was posted by me on day the
day of , 19 .

.....

(The person posting this notice is to complete and sign this certificate at the time of such posting)

No. 8.

Notice of Intervention (Rule 11)

ONTARIO LABOUR RELATIONS BOARD

Between:

A. B.

Petitioner,

—and—

C. D.

Respondent.

TAKE NOTICE that E. F. claims to represent some of the employees of
and intervenes in this proceeding for the purpose of opposing the claims of the petitioner upon the following grounds:

(Where the intervener is acting on behalf of any persons whom he claims to be entitled to certification as bargaining representatives, add:)

AND FURTHER TAKE NOTICE that the intervener asks that the following persons as mentioned in the accompanying

petition be certified as bargaining representatives for the unit of employees therein mentioned:

Dated at this day of , 19 .

.....
Signature.

No. 9.

Notice of Hearing

ONTARIO LABOUR RELATIONS BOARD

Between:

A. B.

Petitioner,

—and—

C. D.

Respondent.

—and—

E. F.

Intervener.

To: A. B., C.D., and E. F.

Take notice of the hearing by

of

at

on day, the day of , 19 ,
at o'clock m.

Dated at Toronto this day of , 19 .

.....
Chief Executive Officer.

No. 10.

*Request for Intervention of the Board with a View to
Completion of an agreement*

ONTARIO LABOUR RELATIONS BOARD

To the Ontario Labour Relations Board:

Negotiations for an agreement having continued for thirty days between A. B. of _____ and C. D. of _____ and it appearing that an agreement will not be completed within a reasonable time, we request the Board to intervene with a view to the completion of an agreement.

We have made the following efforts to negotiate an agreement:

We believe that an agreement will not be completed in a reasonable time for the following reasons:

Dated the day of , 19 .

Signature

No. 11.

Notice of Filing Report (Rule 20 (1))

ONTARIO LABOUR RELATIONS BOARD

Between:

A. B.

Petitioner,

—and—

C. D.

Respondent,

—and—

E. F.

Intervener.

To: A. B., C.D., and E. F.

TAKE NOTICE that the report of
made pursuant to the order of reference made by the Board
on the day of , 19 , a copy of
which report accompanies this notice, has been filed in the
office of the Board.

AND FURTHER TAKE NOTICE that such report will be
confirmed at the expiration of seven days from the date of
the mailing of this Notice to you unless, within such time you
file in the office of the Chief Executive Officer of the Board
at the Parliament Buildings, East Block, Queen's Park, To-
ronto, a notice containing a statement of the grounds of your
objections thereto.

Dated at Toronto this day of , 19 .

.....
Chief Executive Officer.

No. 12.

Notice of Objections (Rule 20 (2))

ONTARIO LABOUR RELATIONS BOARD

Between :

A. B.

Petitioner,

—and—

C. D.

Respondent,

—and—

E. F.

Intervener.

TAKE NOTICE that
takes objection to the report of
dated the day of , 19 , and filed
herein on the day of , 19 , upon
the following grounds, namely:

Dated at this day of , 19 .

.....
Signature

432509

Ontario. Labour Relations Board
The rules of practice and procedure of
the Ontario Labour Relations Board. 1944.

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